

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHELLE COX, on behalf of herself and all)	<u>Motion for Leave to File Amendment to</u>
others similarly situated,)	<u>Complaint</u>
Plaintiff,)	
)	
v.)	Case No. 07 C 6592
)	
STUART A. FULLETT, individually and as)	Jury Trial Demanded
partner of FOSCO, VANDERVENNET &)	
FULLETT, P.C.; and FOSCO,)	Judge Blanche M. Manning
VANDERVENNET & FULLETT, an Illinois)	
professional corporation,)	Magistrate Judge Martin C. Ashman
Defendants.)	

MOTION FOR LEAVE TO FILE FIRST AMENDMEND TO COMPLAINT

Plaintiff, MICHELLE COX, by their attorneys, Kenneth M. DucDuong and Gregory A. Zbylut, moves this Court for leave to file her First Amended Complaint. A copy of the proposed amended complaint is attached herein. In support of this motion, Plaintiff states as follows:

1. That relevant evidence has been discovered since the original complaint was filed on November 21, 2007 that the defendant FOSCO, VANDERVENNET & FULLETT, P.C. (“FVF”) has been dissolved after filing its annual report on or about January 8, 2008.

2. That until and through December 2007, the Illinois's Secretary of State Website continued to show that Fosco, VanderVennet & Fullett, P.C. still was an Illinois corporation in good standing. As stated in Paragraph 1 above, shortly or thereabout after filing its annual report on January 8, 2008, the defendant FVF dissolved and formed a new corporation, to wit, FOSCO FULLETT ROSENLUND, P.C. ("FFR") as of September 27, 2007 according to the Illinois Secretary of State's website.

3. That Plaintiff discovered additional evidence from two individuals, EVARISTO and ALICIA CALZADA (the “Calzadas”) who both will be added as named plaintiffs in the instant

class action, after the original complaint was filed. The Calzadas received a collection letter from the defendants on or about August 17, 2007, the letter of which was substantially in similar form as the collection letter Plaintiff received on September 14, 2007. A true and accurate copy of Calzadas letter is marked as Exhibit "B", attached herein and incorporated by reference as fully set forth herein, in support for this motion.

4. That at the time Plaintiff filed her original complaint, Plaintiff was not aware of this information until meeting with these two individuals.

5. That the newly discovered evidence supports Plaintiff's theory that the Defendants used a computerized, standardized form letter that except for the name of homeowners, the amount of the alleged debts, and other specifics, was sent by the defendants to hundreds of other individuals in Illinois. The defendants' use of a form letter provides further evidence to support Plaintiff's class action complaint.

6. That Plaintiff has reasonably attempted to discuss and work out with Defendants their differences relating to the above issues.

- a. That on February 18, 2008 by electronic mail and phone call, Plaintiff briefly discussed with Defendants the above referenced issues including the correct name of the law firm defendant.
- b. That on February 22, 2008, Plaintiff sent by facsimile a letter to Defendants discussing in detail the above issues including (1) adding the Calzadas as named plaintiff, (2) correct name of the law firm defendant, (3) adding Count IV under 15 U.S.C. 1692e, and (4) motion for summary judgment as to Count I of her Complaint. Plaintiff enclosed a draft summary judgment motion in her February 22, 2008 letter.
- c. That the Defendants stated via electronic mail that they would oppose change of the

caption of the complaint relating to the name of the law firm defendant. The

Defendant did not respond to the other three issues as requested by Plaintiff.

WHEREFORE, Plaintiff respectfully request that this Court grant her leave to file her motion with regards to the above discussed matters.

Dated: February 29, 2008

Respectfully submitted,

s/Kenneth M. DucDuong
Kenneth M. DucDuong
One of Plaintiff's Attorneys

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CERTIFICATE OF SERVICE

I, the undersigned, one of Plaintiff's attorneys, certify that on February 29, 2008 I electronically filed the within Plaintiff's Motion for Leave to File Amendment of Complaint and sent same by electronic mail or facsimile at the telephone number below, a copy of which is attached herein and addressed to:

Attorneys for Defendants, Stuart A. Fullett and Fosco Fullett Rosenlund, P.C., f/k/a Fosco, VanderVennet & Fullett, P.C.:

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s/Kenneth M. DucDuong
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